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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,020	05/12/2005	Mats Dahlback	19378.0089	8677
78724 7590 03/17/2009 Hanify & King Professional Corporation 1875 K STREET, SUITE 707 WASHINGTON, DC 20006				
EXAMINER				
DUDNIKOV, VADIM				
ART UNIT		PAPER NUMBER		
3663				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,020

Applicant(s)

DAHLBACK ET AL.

Examiner

VADIM DUDNIKOV

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 6, 9-13, 15, 18 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 9-13, 15, 18 and 21-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is for replacing the Office Action filed 11/26/08. Said Office Action is withdrawn.

Response to Amendment

2. Amendment filed 2/26/09 and 8/18/08 forms the basis for this Office Action.

Claim 1 has been amended in Amendment filed 2/26/09 and claims 1, 10, 13, 22, 27 and 31 have been amended Amendment filed 8/18/08. Claims 2, 4-5, 7-8, 14, 16-17 and 19-20 are canceled. Claims 1, 3, 6, 9-13, 15, 18 and 21-33 have been pending. Specification amendment overcomes claim 1 rejection relating to limitation "a content that does not exceed that which is normally accepted in Zr or Zr-alloys for applications in nuclear reactors" and said rejection is withdrawn.

Claims amendment overcome claim 1 rejection relating to absent of step "rolling the tube" and claim 1 and claim 13 rejections relating to wording "mainly" and claim 22 rejection relating to wording "suitable". Said rejections are withdrawn.

Comments on Remarks submitted with said amendments are included below under Response to Arguments.

A new basis for rejection is established in view of Application and Arguments consideration.

Response to Arguments

3. Applicant's arguments pages 7-9 filed 2/26/09 have been considered and they are persuasive. Those objections and rejections that have been overcome are omitted from the present Office Action and are considered withdrawn.

Rejection of amended claims established in light of further consideration of Application and search of the prior art. See rejections underneath.

Claim 112 Rejections - 35 USC

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 3, 6, 9-12, 13, 15, 18 and 21-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims **1 and 13** recites the limitation, "comprising a zirconium –based alloy" which was not disclosed in the disclosure as filed and represents a new matter. In amendment the claims 1 and 13 filed 8/18/08 have limitation "composition mainly containing zirconium" was replaced by limitation "comprising a zirconium –based alloy" which is more broader than Zr-based alloys which contains Nb as disclosed on page 7, lines 15 of the Specification.

Claims **3, 6, 9-12, 13, 15, 18 and 21-33** are rejected as depended on rejected claim 1.

5. Claims **1, 3, 6, 9-12, 13, 15, 18 and 21-33** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims **1 and 13** are vague, indefinite and incomplete because include limitation which represents a new matter as detailed in section 4 of this Office Action.

Claims **3, 6, 9-12, 13, 15, 18 and 21-33** are rejected as depended on rejected claims 1 and 13.

6. Claim **12** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Limitation of claim12 "installing the cladding tube in a fuel assembly for a nuclear boiling water reactor" has not relation to the method of producing a cladding tube. There is unclear how said limitation is determined a boundary of claimed invention.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vadim Dudnikov whose telephone number is 571-270-1325. The examiner can normally be reached on 8:00 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached, Mon-Fri 7:00am-4:00 pm, at telephone number 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VD. 3/12/09.

/Rick Palabrica/

Primary Examiner, Art Unit 3663